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Final Report on Sex Therapy and Counseling Licensure in California

Assembly Permanent Subcommittee on Health Personnel

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ASSEMBLY PERMANENT SUBCOMMITTEE

ON

HEALTH PERSONNEL

FINAL REPORT ON SEX THERAPY AND COUNSELING LICENSURE IN CALIFORNIA

JULY 1976

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Assemblyman Walter Ingalls**

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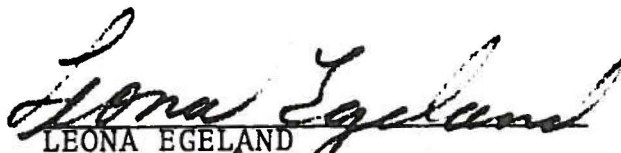
Honorable Leo T. McCarthy
Speaker of the Assembly
Assembly Chambers

Dear Speaker McCarthy:

Your Subcommittee on Health Personnel herewith
submits a final report on its interim study regarding
sex therapy and counseling licensure in California.

Sincerely,


GORDON DUFFY


LEONA EGELAND


BARRY KEENE


JOHN GARAMENDI


BOB MCLENNAN


WALTER INGALLS


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INTRODUCTION

On October 7, 1975, the Assembly Permanent Subcommittee on Health Personnel met in Sacramento to hear testimony on the extent to which sex therapy and counseling activities in California require additional governmental regulation to protect members of the public who seek such services.

The attention of the Subcommittee was brought to the matter as a result of information supplied to it alleging that unqualified therapists were practicing and holding themselves out to practice sex therapy and counseling to the detriment of the public.

The hearing was held to gather information on the following questions:

1. To what extent are sex therapy and counseling activities being carried out in California?
2. What is the training and background of persons who provide sex therapy and counseling services?
3. Do individuals who receive sex therapy from incompetent and/or untrained practitioners suffer harm?
4. What jurisdiction does the State of California currently have to regulate therapy and counseling activities by incompetent and/or unlicensed individuals?
5. If additional State regulatory authority is necessary, what form should that regulation take?

This report presents the findings and recommendations of the Subcommittee; provides a summary of pertinent testimony presented at the hearing; and includes in appendices additional documents and testimony of particular relevance to the Subcommittee's consideration of the issue.

RECOMMENDATIONS

1. The Subcommittee recommends against the adoption of legislation which specifically includes "sex therapy" within the scope of practice of any of the counseling practice acts, thereby limiting its practice entirely to holders of an existing counselor's or therapist's license.
2. The Subcommittee recommends that legislation be enacted requiring any person practicing or holding himself out to practice sex therapy without a counselor's or therapist's license to register with the Department of Consumer Affairs indicating the mode of therapy used and the qualifications of the practitioner. The information supplied should be made available to potential clients of such services and should be required to be included in any advertisement of services to the public.
3. The Subcommittee recommends that the Department of Health establish a Health Manpower Pilot Project testing the competency of unlicensed but trained sex therapists to provide sex therapy.
4. The Subcommittee recommends that the Board of Medical Examiners and the Board of Behavioral Science Examiners: (a) review the requirements which their licentiates must complete to practice sex therapy; and (b) make such regulatory modifications (or recommend legislative changes) to assure the competency of those licentiates who practice sex therapy.

RESERVATIONS TO RECOMMENDATIONS EXPRESSED
BY SUBCOMMITTEE MEMBERS

Assemblywoman Egeland:

Page 6, Recommendation 2: Registration of "sex therapists and counselors" should be broadened to include therapists and counselors whose practice deals primarily with sexuality.

Page 6, Recommendation 3: It is not clear what the value of this activity would be or how it will be carried out.

Assemblyman Garamendi:

Page 6, Recommendation 2: The proposed registration will accomplish little except to increase red tape and bureaucratic interference.

Assemblyman Ingalls:

Page 6, Recommendation 1: Without licensing people may, without the proper qualifications, open up clinics on street corners.

SUBCOMMITTEE FINDINGS

1. Nature and Extent of Sex Therapy and Counseling in California.

- a) The extent of sex therapy and sex counseling activity in California is not known. Dr. William Masters has estimated that there are between 3,500 and 5,000 sex therapy clinics in the United States. Between 70 and 90% of persons treated in sex therapy in California are married.
- b) Although estimates have been made on the subject, there is not yet a well documented body of literature on the extent of sexual problems and their affect on individuals, family dynamics and family deterioration. Testimony indicated, however an increasing demand for the service of sex counselors and therapists.

2. Training and Background of Persons Providing Sex Therapy and Counseling

- a) A wide variety of persons provide sex therapy and counseling services. They include persons holding licenses (physicians, psychologist, marriage and family counselors, licensed clinical social workers) as well as laymen who have been specifically trained to provide sex therapy and laymen who have no specific training.

3. Harm resulting from Incompetent Practitioners

- a) Individuals who receive sex therapy from incompetent

practitioners sometimes suffer harm as a result of misdiagnosis or inappropriate treatment. Harm testified to ranged from depression and psychological discomfort to suicide. An increasing percentage of clients referred to specialized sex therapy centers represent prior therapeutic failure.

- b) Failure of therapy with resulting harm cited in testimony was more commonly the result of practice by licensed rather than unlicensed personnel.

4. Extent of Current Regulation of Sex Therapy and Counseling in California

- a) Up to now, the State healing arts licensing boards have not attempted to regulate sex therapy activities.
- b) The Board of Behavioral Science Examiners has indicated in a legal opinion to the Subcommittee that since sex therapy has not been specifically defined, it cannot categorically state whether its practice comes within the jurisdiction of the board (including the activities of a clinical social worker or marriage and family counselor). The Board of Behavioral Science Examiners further states that unless an advertisement for sex therapy and counseling indicates the use of psychotherapeutic techniques is tied to relationships within a marriage or family, it would not come within the jurisdiction of the board.
- c) The Psychology Examining Committee has stated to the Subcommittee

that the practice and the advertising of sex therapy came within the scope of the practice act governing psychology because, according to the Examining Committee, "sex therapy is psychotherapy with specific focus on sexual adjustment or maladjustments."

- d) The Subcommittee on Health Personnel does not concur with the view of the Psychology Examining Committee that in every case sex therapy can be equated with psychotherapy. The Subcommittee finds rather that the practice of sex therapy by a practitioner must be considered individually to determine whether psychotherapeutic techniques are being used in violation of the statutes regulating the practice of psychology, marriage and family counseling and clinical social work.

5. Desirability of Additional State Regulatory Authority

- a) The Subcommittee heard conflicting evidence as to whether the protection of the public would be significantly improved at this time by specifically including "sex therapy" within the scope of practice of the existing licensed counseling professions. Based on this testimony before the Subcommittee, further limiting the practice of sex therapy to "licensed" personnel does not appear to serve a significant public purpose.
- b) Testimony before the Subcommittee indicates that the mere holding of a license by a therapist is no assurance of his or her competency to practice sex therapy.

- c) To the extent that specific sex therapy activities are detrimental to the public and constitute practice activities currently within the definition of scope of practice restricted by law to licensed personnel only, the Board of Behavioral Science Examiners and the Board of Medical Examiners--Psychology Examining Committee have adequate existing authority to protect the public.
- d) While there was little direct testimony as to harm resulting from the practice of sex therapy by unlicensed personnel, the Subcommittee finds there is a potential for such harm and the need to provide additional information to the public on the qualifications of practitioners.

SUMMARY OF TESTIMONY

1. The Nature and Extent of Sex Therapy Activity in California.

The Subcommittee received little direct testimony on the extent to which sex therapy activities are taking place in California at this time, and no direct testimony on how many sex therapy clinics there are operating in California. In a recent article Dr. William Masters estimated that there are between 3,500 and 5,000 sex clinics operating in the United States. Witnesses generally agreed that the demand for services is burgeoning.

Witnesses speculated on the reasons for the increased demand for services of sex counselors and therapists. Many concluded that the increase has to do with changing societal values as well as individual expectations concerning appropriate sexual functions.

Sex therapy and counseling takes place in family planning clinics, drug and alcohol abuse rehabilitation centers, family and guidance centers, venereal disease clinics, physicians' offices, counseling centers and centers specifically designated as sex therapy counseling centers. Individuals who hold themselves out as providing sex therapy and counseling services advertise in the yellow pages of the phone book under Marriage and Family Counseling and Psychology sections and in some newspapers.

According to the testimony, at least 70% of couples seen in sex therapy sessions are married. Of those persons receiving

services at sex therapy clinics, perhaps 25% had complaints which were viewed as being treatable by education rather than more complex counseling and therapy procedures. Witnesses noted however, that the proportion of clients with more serious complaints seemed to be increasing.

Witnesses testified as to the distinction between sex education, sex counseling and sex therapy.

Sex education was defined by one witness as, "the provision of basic information appropriate to the listener's level of maturity concerning such things as reproductive biology, anatomy, physiology conception, contraception, child birth, breast feeding and the like."

Sex counseling was defined as, "the provision of normative information to people who are already sexually active."

Sex therapy was defined by the same witness as a, "specialized kind of therapeutic intervention to be of help when there is a special dysfunction present."

Although these definitions were useful for discussion purposes it was noted that many knowledgeable individuals view counseling and therapy functions as blending together.

The major subject in dispute among witnesses testifying on the nature of sex therapy was whether the performance of sex therapy activities requires the use of therapeutic techniques to ameliorate social and psychological conflicts beyond the immediate sexual problem.

One witness indicated that in most sex therapy activity, especially that involving long standing marriages, 80% of the therapy deals with the marriage relationship and 20% with sexuality. Sexual problems seen in this context are only symptomatic of the larger problems involving the marriage relationship.

A number of witnesses holding this view favored restricting sex therapy activity to persons holding one of the counseling licenses: marriage and family counselors, clinical social workers and licensed psychologists. According to this view, the statutory educational and experience requirements for persons carrying out counseling and therapy activities are a necessary prerequisite for anyone practicing sex therapy.

Other witnesses argued that this approach would provide insufficient public protection because persons holding a counselors license are not necessarily competent sex therapists. These witnesses proposed that persons holding existing counseling licenses should not be allowed to perform sex therapy without some sort of additional specialized certificate indicating training in this field.

Still other witnesses, while sympathetic with this approach, felt that there are insufficient training programs available at this time to make such a requirement practical.

Finally, there were a substantial number of witnesses whose position it was that the practice of sex therapy should not have as a precondition obtaining of a counseling license because of the embryonic nature of the sex therapy field.

2. The Training and Background of Persons Who Provide Sex Therapy and Counseling Services.

A wide variety of persons provide sex therapy and counseling services. They include persons holding counseling licenses (physicians, psychologists, marriage and family counselors, licensed clinical social workers) as well as laymen who have been specifically trained to provide sex therapy, and also may include laymen who have no specific training.

Witnesses described some of the better known training programs for sex therapists and counselors in California:

The U.C. San Francisco program in Human Sexuality is 3-1/2 years old and has trained between 3,000 and 3,500 persons in the healing professions with specific skills required to perform sex counseling and therapy. The program receives only modest state support through a Dean's fund and is not located in any specific academic department of the University. The bulk of funding for the UCSF program comes from revenues received for services provided by the program. Among the elements which are contained in the UCSF Human Sexuality Program is a sex counseling program for the needs of the physically disabled.

It was noted in testimony that the cost of sex therapy training is quite high. One clinic estimated that its rates were moderate and indicated that it charged \$500 per week for a six week course in sex therapy.

Most witnesses agreed that at the present time there are an

insufficient number of training programs to support an immediate statutory requirement that persons practicing sex therapy have graduated from an approved sex therapy training program.

Persons holding licenses in any of the licensed counseling professions may practice sex therapy. Witnesses agreed that the competence of these licentiates to practice sex therapy based upon their education and background relevant to perform such tasks vary immensely.

Testimony was received alleging that physicians may be the licensed practitioners with the least training to engage in sex therapy.

(See discussion of harm resulting from activities of therapists, #3 to follow.) The amount of course offerings in medical schools which relate to human sexuality varies greatly. The U.C. San Francisco Medical School, perhaps because it has a human sexuality program, provides one of the more extensive course offerings in this field for medical students. UCSF also has the first nursing program to incorporate human sexuality subject matter in its curriculum.

One witness who manages a sex therapy program pointed out that as a practicing physician he was incapable of dealing with a common sexual problem because of lack of training. This was later remedied by his receiving specific training in a sex therapy program. Marriage and family counselors generally have the greatest amount of preparation in this subject, though they need not have an extensive background in sex therapy in order to receive their license.

There seemed general agreement among the witnesses that the basic preparation required of all holders of counseling licenses was inadequate to assure that the licentiate could effectively practice sex therapy. This was the strongest argument made for establishing a special certification program in sex therapy beyond the counselors licensee.

3. The Harm Suffered by Individuals Who Receive Sex Therapy From Incompetent or Untrained Individuals

Individuals who receive sex therapy from incompetent practitioners sometimes suffer harm as a result of misdiagnosis or inappropriate treatment. Harm testified to range from suicide to depression and psychological discomfort. An increasing percentage of clients referred to specialized sex therapy centers represent prior therapeutic failure.

Witnesses testified that they had no knowledge of public research documenting the extent of harm resulting from incompetent practitioners. However, many related incidents of which they had personal knowledge in which individuals suffered some ill effects as a result of receiving incompetently provided sex therapy.

Examples of harm alleged included counselors using the wrong technique, resulting in the disruption of marriage; depression resulting from inappropriate advice, the prescription of a sex surrogate for an individual with an essentially conservative background resulting in depression; incorrect advice; and misdiagnosis by gynecologists concerning sexual problems of women.

The reference to suicide were made by only one witness. Other witnesses testified to the fact they had no personal knowledge of suicides or schizophrenic reactions resulting from poor sex therapy, but that individuals in such a situation often became depressed and unwilling to seek further help. Also, personal relationships suffer.

Every incident recited in testimony in which a specific harm was alleged resulting from sex therapy occurred as a result of the activities of a practitioner already holding a counseling license of one sort or another.

The issue of whether unlicensed persons or persons holding counseling licenses represent a greater danger to their clients in the practice of sex therapy services was highlighted in testimony concerning the UCSF sex therapy program to meet the needs of the physically disabled. The witness from this program testified that misinformation from the licensed professional was often a source of psychological harm to the physically disabled client.

Another witness referred to licensed counselors incorrectly telling their clients that they would never function sexually again. Some witnesses considered this kind of misinformation to be ineffective treatment rather than harmful treatment.

However, whether termed "harmful" or "ineffective treatment", the problem of inappropriate therapy as described by witnesses seemed greater among practitioners holding counselor licenses than it did among unlicensed practitioners.

4. The Authority of the State of California To Regulate the Practice and Advertising of Sex Therapy and Sex Counseling Activities

The Subcommittee sought to determine the scope of jurisdiction possessed by State agencies over the practice of sex therapy and sex counseling.

The regulation of counseling and psychotherapy generally falls under the purview of the various Healing Arts Practice Acts administered by licensing boards. Physicians and psychologists are regulated by the Board of Medical Examiners and the Psychology Examining Committee of that Board. The practice of licensed clinical social workers and marriage and family counselors come under the jurisdiction of the Board of Behavioral Science Examiners.

The Board of Behavioral Science Examiners was asked to provide an opinion to the Subcommittee on whether the practice of sex therapy or the holding out by a practitioner that he provided sex therapy services comes within the provisions of any of the practices acts under the jurisdiction of the Behavioral Sciences Board.

The response of the Board is provided in full in Appendix I. In summary, the Board concluded that it had no adequate definition of sex therapy upon which to base a determination as to its jurisdiction. The Board of Behavioral Science Examiners further concluded that unless the activities or the holding out of such activities on the part of the practitioner indicated the use of psychotherapeutic techniques or related specifically to the marriage situation, it would have no jurisdiction.

The relevant sections of the Clinical Social Worker Practice Act and the Marriage and Family Counselor Act, upon which the Board relied are as follows:

Profession: clinical social worker

Scope of Practice:

...Special knowledge of social resources, human capabilities and the part that unconscious motivation plays in determining behavior is directed at helping people to achieve more adequate satisfying and productive social adjustments.

...counseling and using applied psychotherapy of a non-medical nature with individuals, families and groups, providing information, referral services...social services...interpreting the psycho-social aspects in the situations of individuals, families or groups, helping communities to organize...

Psychotherapy--The use of psycho-social methods within a professional relationship to assist a person ...to achieve a better psycho-social adaptation, to acquire greater human realization of psycho-social potential and adaptation, to modify internal and extended conditions which affect individuals, groups, or communities in respect to behavior, emotion, thinking...(and) intrapersonal and interpersonal relations. (9049 B & P)

Exemptions:

(May practice if no holding out.) (1) Physicians; (2) Psychologists; (3) Attorneys; (4) Marriage and family counselors; (5) Ordained clergy; (6) Federal employees; (7) Employees of psychiatric clinics; (8) Educational employees; (9) Hypnotists. (9052 B & P)

Profession: Marriage, Family and Child Counselors

Scope of Practice:

...Service performed with individuals, couples or groups wherein interpersonal relationships between spouses or members of a family are examined for the purpose of achieving more... satisfying marriage and family adjustments. Such practice includes, pre-marriage counseling... includes, but is not limited to, the use of psychotherapeutic techniques to enable individuals to mature and grow within marriage and the family

and the provision of explanation and interpretation of the psycho-sexual and psycho-social aspects of relationships within a marriage and family. (17800.2 B & P)

Exemptions:

(May practice if no holding out.) (1) Physician; (2) Psychologist; (3) Social Worker; (4) Ordained Clergy. (17800.1 B & P)

It is noteworthy that persons seeking a more stringent regulation of the practice of sex therapy have proposed an amendment to the Marriage and Family Counselor Act in SB 1184 which would specifically include, within the scope of practice of the Marriage and Family Counselor Act, the practice of sex therapy. The drafters of this bill, therefore, have assumed that the definition of Marriage and Family Counseling does not now specifically include sex therapy. However, it is probably the case that some sex therapy activity falls within the current scope of practice provisions of the Marriage and Family Counseling statute.

The Psychology Examining Committee of the Board of Medical Examiners was requested by the Subcommittee to provide it with an opinion as to whether the practice or advertising of sex therapy comes within the Psychology Practice provisions of the Business and Professions Code.

The response of the Psychology Examining Committee is also included in Appendix I. In summary, the Psychology Examining Committee concluded that the practice of sex therapy directly falls within the practice of psychology. The rationale for this conclusion is that sex therapy can be directly equated

with psychotherapy.

The provision of statute upon which the Examining Committee relied follow:

Profession: Psychologists

Scope of Practice:

...procedures of understanding, predicting and influencing behavior such as the principles pertaining to learning perception, motivations, thinking emotions and interpersonal relationship, and the methods and procedures of interviewing, counseling, psychotherapy and hypnosis; of constructing, administering and interpreting tests of mental abilities...and... personality...

...Diagnosis, prevention, treatment and amelioration of psychological problems and emotional and mental disorders of individuals and groups.

Psychotherapy--The use of psychological methods in a professional relationship to assist a person... to acquire greater human effectiveness or to modify feelings, emotionally, intellectually or socially ineffectual or maladjustive. (2903 B & P)

...shall not include prescribing drugs, performing surgery or administering electro convulsive therapy. (2904 B & P)

Exemptions:

(May practice if no holding out.) (1) Physicians; (2) Psychiatric nurse under supervision of a physician or psychologist; (3) Attorney; (4) Hypnotist on referral or using avocational self-improvement; (5) Ordained clergy; (6) Anthropologist, political scientists, sociologists; (7) Government employees; (8) Educational psychologists. (2908 B & P)

It should be noted that the Psychology Examining Committee's response, unlike that issued by the Board of Behavioral Science Examiners, is not based specifically on a legal opinion.

Although there was testimony on the part of some witnesses which equated the practice of sex therapy directly with psycho-

therapy, there was also testimony to the contrary arguing that in some cases the practice of sex therapy involves no psychotherapy at all. Part of the confusion in this area concerns the possible overlap of sex therapy with sex counseling activities. Given the nature of the activities described to the Subcommittee which can fall within the term "sex therapy", it does not appear to be the case that all sex therapy necessarily is psychotherapy.

5. Testimony Concerning the Need for Additional State Regulatory Authority

Arguments made by witnesses testifying at the hearing on the subject of the need for additional State regulatory authority over sex therapy can be placed in the following groupings:

- a. Authority does not exist under any licensing act to regulate sex therapy. Sex therapy is an activity which should require as a pre-condition to its competent practice that the practitioner develop counseling skills and obtain a license as a counselor.
- b. Agrees with the position in a. above; however, argues that obtaining a counseling license is necessary, but not a sufficient pre-condition to the competent practice of sex therapy. In addition to the counseling license, therapists should be required to have a specific certificate in sex therapy. This approach would initiate a policy of specialty certification in the counseling field (which would presumably extend to other sub-specialties of therapy).
- c. Holding a counseling license is not a necessary pre-condition to the competent practice of sex therapy. However, practicing

therapists should be required to have attended an approved sex therapy training program. This approach would establish a new category of State-regulated health professionals, the "sex therapist".

- d. Sex therapy is a new and rapidly evolving field in which no established orthodoxy exists with which to define the legitimate scope of practice or approach. Therefore, there should be no licensure of sex therapists.
- e. A variation of the approach in d. would accept the notion that sex therapy is a rapidly developing field and that licensing and certification would not be appropriate. However, it would not leave the field totally in a laissez-faire state, but would establish pilot projects for consumer education and evaluation of sex therapy services.
- f. Sex therapy requires no additional regulation, since the language of the existing practices acts in marriage and family counseling and psychology cover most of the activities now constituting sex therapy and thereby limit the practice to licensed counselors.
- g. Agrees with the analysis in f., but suggests a clarification in the relevant statutes by adding the term "sex therapy" to those activities constituting the scope of practice of the counseling professions. The effect of this approach would be to limit sex therapy only to counseling professions.

There was no consensus among the witnesses as to which of these

approaches is the most appropriate. There was some agreement to the notion that sex therapy is a developing field and the regulatory activities of the state should not be used to unduly restrict the emergency of new approaches in the field.

APPENDIX

Memorandum

To : JUNE GABBARD
Executive Secretary
Board of Behavioral Science Examiners

Date : October 7, 1975

Subject :

From : Department of Consumer Affairs
Division of Administration - Legal Office

We are in receipt through your office of a letter from the Assembly Permanent Subcommittee on Health Personnel to the Chairman of the Board. You have asked our office for a legal opinion in answer to Questions 1 and 2 and for our comments on Question 5. Each question will be analyzed individually below.

I

Question 1 asks:

"Does the practice of sex therapy come within any of the licensing statutes under the jurisdiction of the Board? That is, must individuals practicing sex therapy be licensed under one of the categories covered by the Board?"

The initial step in this analysis would be to resolve the obvious query of what constitutes sex therapy. It is our understanding that the subcommittee may propose a definition of sex therapy as a result of its hearings.

Essentially if sex therapy as practiced by an individual comes within one of the practice definitions set forth below, then it would be under the jurisdiction of the Board. Otherwise, the Board would have no jurisdiction in this area.

Such therapy if under the jurisdiction of the Board would likely fall under either the Social Work Law or the Marriage, Family, and Child Counselor Law. Section 9049 of the Business and Professions Code (all references hereinafter will be to that code) defines the practices of clinical social work and psychotherapy.

Section 9049. "The practice of clinical social work is defined as a service in which a special knowledge of social resources, human capabilities, and the part that unconscious motivation plays in determining behavior, is directed at helping people to achieve more adequate, satisfying and productive social adjustments. The application of social work principles and methods includes, but is not restricted to, counseling and using applied psychotherapy of a nonmedical nature with individuals, families and groups, providing information and referral services, providing or arranging

for the provision of social services, explaining and interpreting the psychosocial aspects in the situations of individuals, families or groups, helping communities to organize, to provide, or improve social and health services, and doing research related to social work.

* * *

Psychotherapy, within the meaning of this chapter, is the use of psychosocial methods within a professional relationship, to assist the person or persons to achieve a better psychosocial adaptation, to acquire greater human realization of psychosocial potential and adaptation to modify internal and external conditions which affect individuals, groups, or communities in respect to behavior, emotions, and thinking, in respect to their intrapersonal and interpersonal processes."

Section 17800.2 defines the practice of marriage, family, and child counseling.

Section 17800.2. "For the purposes of this chapter, the practice of marriage, family and child counseling shall mean that service performed with individuals, couples, or groups wherein interpersonal relationships between spouses or members of a family are examined for the purpose of achieving more adequate, satisfying, and productive marriage and family adjustments. Such practice includes premarriage counseling.

The application of marriage, family and child counseling principles and methods includes, but is not limited to, the use of applied psychotherapeutic techniques, to enable individuals to mature and grow within marriage and the family, and the provision of explanations and interpretations of the psychosexual and psychosocial aspects of relationships within a marriage and family."

Because sex therapy is not yet defined at this time we cannot categorically state whether its practice is under the jurisdiction of the Board. If sex therapy as practiced by any person constitutes the practice of clinical social work or marriage, family, and child counseling as defined in the Code then that practice is under the jurisdiction of the Board.

II

Question 2 asks:

"Does the holding out by an individual in a newspaper or other advertisement that he practices sex therapy or sex counseling come within the jurisdiction of one of the license categories under the Board?"

There are no provisions in those sections of the Code which are enforced by the Board that pertain to the advertising of sex counseling or sex therapy in itself. Section 17800 prohibits any person who is not licensed as a marriage, family, and child counselor from advertising or offering services as such. If sex therapy or counseling is advertised in the context of or in relation to marriage, family, and child counseling, as defined above in Section 17800.2 above, then licensure would be required, and the Board would have jurisdiction over that practice.

If an advertisement for sex therapy or counseling indicates the use of psychotherapeutic methods or techniques this would constitute representation as a clinical social worker as defined above in Section 9049. As noted above, if the advertisement indicated the use of psychotherapeutic methods or techniques in relation to marriage or the family structure, then a marriage, family, and child counselor license would be required if the advertiser was not already licensed as a social worker.

The act of advertising of the practice of sex therapy or counseling where the advertisement does not relate or refer to the relationships within a marriage or family or does not represent the use of psychotherapeutic methods would not come within the jurisdiction of the Board.

III

Question 5 asks:

"If the Board believes that additional regulation of sex therapy and sex counseling practices would be desirable, should that regulation involve limiting the practice of sex therapy and sex counseling to existing licensed categories or should some special classification be established?"

If the practice of sex therapy and sex counseling are limited to an existing license category under the Board's jurisdiction, we assume that category would be either the marriage, family, and child counselor license or the clinical social worker license.

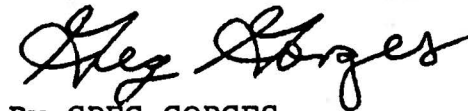
It would seem that to limit the practice of sex therapy to those persons licensed as marriage, etc. counselors would require a broadening of the scope of that practice by those licentiates, as their practice under current law is limited to "interpersonal relationships between spouses or members of a family" Section 17800.2, *supra*. It can be safely assumed that those persons suffering from psychological, emotional, and social maladies of a sexual nature are not limited to the marital dyad or members of a familial unit. In order for marriage, etc. counselors to provide sex therapy services or sex counseling to, for instance, unmarried persons the practice of marriage, family and child counseling as defined would thus have to be broadened to allow those licentiates to offer sex therapy services to unmarried members of the public.

There are several disciplines which may offer counseling services for problems of a sexual nature, including psychiatry, psychology, and clinical social work. If sex therapy and sex counseling were to be limited to an existing license category, it would probably best be limited to the above-mentioned professional classifications.

Would the interests of the consumer be best protected by the creation of a new licensing entity and possible regulatory agency for sex therapists and sex counselors? As those terms are commonly used they include the gamut of services provided by a physician and surgeon specializing in psychiatry to a filie de joie. To create a new license classification would be tantamount to stating that first, sex therapy as it would be defined does not fit into any of the already established license classifications and second, that there are currently certain services now offered relating to sex therapy which are not under the jurisdiction of an existing professional licensing act. The prospect of the state legislatively granting professional status and possibly bestowing its nihil obstat on the providers of those nonregulated services seems dubious at best, and may include some professions currently scrutinized by a local vice squad.

Preliminarily, it would appear that much would depend on a factual definition of the various practices that would constitute sex therapy and sex counseling.

GUS E. SKARAKIS
Chief Counsel



By GREG GORGES
Legal Counsel

GG:1kg

cc: Steve Zarkin,
Assembly Permanent Subcommittee
on Health Personnel

BOARD OF MEDICAL EXAMINERS
PSYCHOLOGY EXAMINING COMMITTEE1020 N STREET, SACRAMENTO, CALIFORNIA 95814
TELEPHONE: (916) 322-5043

October 30, 1975

The Honorable Gordon Duffy
State Capitol, Room 4005
Sacramento, CA 95814

Dear Assemblyman Duffy:

The Psychology Examining Committee has asked me to respond to your letter of October 15 regarding sex therapy, which we discussed during our October 25-26 meeting. The committee responded to your questions as follows:

1. The practice of sex therapy does come within the Psychology Practices Act. Although not specifically mentioned in the definition of the practice of psychology, it would fall within it because of the generic nature of psychotherapy. Sex therapy is psychotherapy with specific focus on sexual adjustment or maladjustment. Sex therapy or counseling might also come within the scope of some of the professions exempted from the Psychology Practices Act by Section 2908 of the Business and Professions Code. Specifically, marriage, family and child counselors, licensed clinical social workers, and physicians.
2. The advertising by an individual that he practices sex therapy and sex counseling with the intent to modify human behavior or adjustment, would come within the jurisdiction of the Psychology Examining Committee and/or the Board of Medical Examiners.
3. The committee feels that there is need for additional legislation in this area to make "sex therapy" and "sex counseling" specifically part of the definition of the practice of psychology (Section 2903), as is, for example, behavior modification.
4. While the committee does not have extensive systematic evidence of damage caused by unlicensed persons practicing sex therapy, it does have a professional judgment that untrained, unlicensed people may not be prepared to see the part maladjustment in the sexual sphere plays in the total adjustment of an individual and vice versa.

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5. Sex therapy and/or counseling would appear to currently fall within the scope of several licensure categories. The committee feels that man's socio-sexual behavior is an integrated part of total human behavior and should not be isolated, i.e., a separate licensure category should not be established. Sex therapy and/or counseling should be limited to existing licensed categories.
6. The committee feels that the primary distinction between sex therapy and sex counseling is that sex counseling is primarily a verbal process of understanding and attitudinal change, where as sex therapy may include more specific behavioral modification techniques.

In closing, the committee would like to thank you for the opportunity to share our views with your committee. We would be glad to offer our assistance if, in the future, you need help in clarifying some of the complex issues in this area.

Very truly yours,



WALLACE V. LOCKWOOD
Chairman

WVL:jla

cc: Steve Zatzkin
Raymond Reid
Members, Psychology Examining Committee